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Attorney for Defendant
TASTES ON THE FLY SFO, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ADRIAN YEPEZ, on behalf of himself and all
other situated,

Plaintiff,

vs.

TASTES ON THE FLY SFO, LLC,

Defendant.

Case No.

San Mateo County
Case No. 21-CIV-05010

**DEFENDANT TASTES ON THE FLY SFO,
LLC, OF REMOVAL OF ACTION UNDER
28 U.S.C. § § 1331, 1441(a) (FEDERAL
QUESTION)**

Pursuant to 28 U.S. Code §§ 1441, 1446, 28 U.S.C. § 1331 and 28 U.S.C. § 1367, Defendant TASTES ON THE FLY SFO, INC. (hereinafter “Defendant”) hereby removes the action (hereinafter “Defendant”) hereby removes the action *Adrian Yopez, on Behalf of Himself and All Other Situated v. Tastes On The Fly SFO, LLC*, Case No.: 21-CIV-05010, from the California Superior Court, County of San Mateo to this Court on the following grounds:

1. On or about September 15, 2021, Plaintiff filed a civil class-action complaint (the “Complaint”) in California Superior Court for the County of San Mateo. Defendant received a copy of the Complaint on September 30, 2021. The putative class is defined as all of Defendant’s union-represented hourly wage employees. A copy of this Complaint, Summons,

Initial Case Management Order and Notice of Judicial Assignment are attached hereto as
Exhibit A.

JURISDICTION

2. The Complaint includes claims over which the United States District Courts have original jurisdiction, pursuant to 28 U.S.C. § 1331 and federal question jurisdiction over this matter by reason of Section 301 of the Labor-Management Relations Act ("LMRA"), 29 U.S.C. § 185.
3. Accordingly, this matter is removable under 28 U.S. Code § 1446.
4. Furthermore, pursuant to 28 U.S.C. § 1367 this Court has supplemental jurisdiction over all other claims appearing in the Complaint that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.
5. To date, Defendant has not filed a responsive pleading.
6. Defendant is represented in this action by counsel signing this Notice of Removal and consents to the removal of this action to United States District Court, Northern District of California.
7. This Notice of Removal has been served on Plaintiffs and will be filed in California Superior Court for the County of San Mateo promptly following this filing of this Notice of Removal.

Dated: October 8, 2021

KAUFMAN DOLOWICH & VOLUCK, LLP



Arthur Gaus
Attorney for Defendant TASTES ON THE
FLY SFO, LLC

EXHIBIT A



**Service of Process
Transmittal**

09/28/2021

CT Log Number 540323404

TO: Derek Watson
Tastes On The Fly Logan, LLC
235 E 3RD AVE STE 207
SAN MATEO, CA 94401-4094

RE: Process Served in California

FOR: Tastes on the Fly San Francisco, LLC (Domestic State: CA)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: ADRIAN YEPEZ, on behalf of himself and others similarly situated, // To: Tastes on the Fly San Francisco, LLC

DOCUMENT(S) SERVED: --

COURT/AGENCY: None Specified
Case # 21CIV05010

NATURE OF ACTION: Employee Litigation

ON WHOM PROCESS WAS SERVED: C T Corporation System, GLENDALE, CA

DATE AND HOUR OF SERVICE: By Process Server on 09/28/2021 at 01:19

JURISDICTION SERVED : California

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): None Specified

ACTION ITEMS: CT has retained the current log, Retain Date: 09/28/2021, Expected Purge Date: 10/03/2021

Image SOP

Email Notification, Derek Watson derek.watson@tastesonthefly.com

REGISTERED AGENT ADDRESS: C T Corporation System
330 N BRAND BLVD
STE 700
GLENDALE, CA 91203
877-467-3525
SmallBusinessTeam@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



PROCESS SERVER DELIVERY DETAILS

Date: Tue, Sep 28, 2021

Server Name: Bernard Richards

Entity Served TASTES ON THE FLY SAN FRANCISCO, LLC

Case Number 21-CIV-05010

Jurisdiction CA



SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

TASTES ON THE FLY SAN FRANCISCO, LLC; and DOES 1 to 100, inclusive,

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

ADRIAN YEPEZ, on behalf of himself and others similarly situated,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

Electronically
FILED

by Superior Court of California, County of San Mateo

ON 9/16/2021

By /s/ Anthony Berini
Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desachar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Southern Branch: Hall of Justice
400 County Center, Room A
Redwood City, CA 94063

CASE NUMBER:
(Número del Caso): 21-CIV-05010

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Roman Otkupman: 5743 Corsa Ave., Suite 123, Westlake Village, CA 91362; (818)293-5623

DATE: 9/16/2021 Neal I. Taniguchi Clerk, by /s/ Anthony Berini, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): Tastes On The Fly San Francisco, LLC
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☒ other (specify): LLC
4. ☐ by personal delivery on (date):



Electronically

FILED

by Superior Court of California, County of San Mateo

ON 9/16/2021

By /s/ Anthony Berini
Deputy Clerk

Joseph Lavi, Esq. (SBN 209776)
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Attorneys for Plaintiff ADRIAN YEPEZ,
 on behalf of himself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO

ADRIAN YEPEZ, on behalf of himself and
 others similarly situated,

Plaintiff,

vs.

TASTES ON THE FLY SAN FRANCISCO,
 LLC; and DOES 1 to 100, inclusive,

Defendants.

Case No.: 21-CIV-05010

CLASS ACTION

**PLAINTIFF ADRIAN YEPEZ'S
 COMPLAINT FOR DAMAGES AND
 RESTITUTION FOR:**

- 1. FAILURE TO PAY WAGES FOR
 ALL HOURS WORKED AT
 MINIMUM WAGE IN
 VIOLATION OF LABOR CODE
 SECTIONS 1194 AND 1197**
- 2. FAILURE TO PAY OVERTIME
 WAGES FOR DAILY OVERTIME
 WORKED IN VIOLATION OF
 LABOR CODE SECTIONS 510 AND
 1194**
- 3. FAILURE TO AUTHORIZE OR
 PERMIT MEAL PERIODS IN
 VIOLATION OF LABOR CODE
 SECTIONS 512 AND 226.7**

4. **FAILURE TO AUTHORIZE OR PERMIT REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7**
5. **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN VIOLATION OF LABOR CODE SECTION 226**
6. **FAILURE TO TIMELY PAY ALL EARNED WAGES AND FINAL PAYCHECKS DUE AT TIME OF SEPARATION OF EMPLOYMENT IN VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**
7. **UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTIONS 17200, ET SEQ.**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff ADRIAN YEPEZ ("Plaintiff"), who alleges and complains against Defendants TASTES ON THE FLY SAN FRANCISCO, LLC; and DOES 1 to 100, inclusive (collectively "Defendants") as follows:

I. INTRODUCTION

1. This is a class action lawsuit seeking unpaid wages and interest thereon for failure to pay wages for all hours worked at minimum wage; failure to pay for overtime hours worked at the overtime rate; failure to authorize or permit all legally required and/or compliant meal periods and/or pay meal period premium wages; failure to authorize or permit all legally required and/or compliant rest periods and/or pay rest period premium wages; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; injunctive relief and other equitable relief; reasonable attorneys' fees pursuant to Labor Code sections 218.5, 226(e) and 1194; costs; and interest brought on behalf of Plaintiff and others similarly situated.

///

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiff's and putative class members' claims for failure to pay wages for all hours worked at minimum wage; failure to pay for overtime hours worked at the overtime rate of pay; failure to authorize or permit all legally required and/or compliant meal periods and/or pay meal period premium wages; failure to authorize or permit all legally required and/or compliant rest periods and/or pay rest period premium wages; statutory penalties for failure to provide accurate wage statements; statutory waiting time penalties in the form of continuation wages for failure to timely pay employees all wages due upon separation of employment; and claims for injunctive relief and restitution under California Business and Professions Code sections 17200, *et seq.*, for the following reasons: Defendants operate throughout California; Defendants employed Plaintiff and putative class members in locations throughout California, including but not limited to San Mateo County, at 235 East 3rd Avenue, Suite 207, San Mateo, California 94401; more than two-thirds of putative class members are California citizens; the principal violations of California law occurred in California; no other class actions have been filed against Defendants in the last four (4) years alleging wage and hour violations; the conduct of Defendants forms a significant basis for Plaintiff's and putative class members' claims; and Plaintiff and putative class members seek significant relief from Defendants.

III. PARTIES

3. Plaintiff brings this action on behalf of himself and other members of the general public similarly situated. The named Plaintiff and the class of persons on whose behalf this action is filed are current, former, and/or future employees of Defendants who work as hourly non-exempt employees. At all times mentioned herein, the currently named Plaintiff is and was a resident of California and was employed by Defendants in the State of California within the four (4) years prior to the filing of this Complaint.

4. Defendants formerly employed Plaintiff as an hourly non-exempt employee.

5. Plaintiff is informed and believes and thereon alleges that Defendant employed him and other hourly non-exempt employees throughout the State of California and therefore their

1 conduct forms a significant basis of the claims asserted in this matter.

2 6. Plaintiff is informed and believes and thereon alleges that Defendant TASTES ON
3 THE FLY SAN FRANCISCO, LLC is authorized to do business within the State of California and
4 is doing business in the State of California and/or that Defendants DOES 1-50 are, and at all times
5 relevant hereto were persons acting on behalf of Defendant TASTES ON THE FLY SAN
6 FRANCISCO, LLC in the establishment of, or ratification of, the aforementioned illegal wage and
7 hour practices or policies. Defendant TASTES ON THE FLY SAN FRANCISCO, LLC operates
8 in San Mateo County and employed Plaintiff and putative class members in San Mateo County,
9 including but not limited to, at 235 East 3rd Avenue, Suite 207, San Mateo, California 94401.

10 7. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51-
11 100 are individuals unknown to Plaintiff. Each of the individual Defendants is sued individually in
12 his or her capacity as an agent, shareholder, owner, representative, supervisor, independent
13 contractor and/or employee of each Defendant and participated in the establishment of, or
14 ratification of, the aforementioned illegal wage and hour practices or policies.

15 8. Plaintiff is unaware of the true names of Defendants DOES 1-100. Plaintiff sues
16 said defendants by said fictitious names and will amend this Complaint when the true names and
17 capacities are ascertained or when such facts pertaining to liability are ascertained, or as permitted
18 by law or by the Court. Plaintiff is informed and believes that each of the fictitiously named
19 Defendants is in some manner responsible for the events and allegations set forth in this
20 Complaint.

21 9. Plaintiff is informed and believes and thereon alleges that at all relevant times, each
22 Defendant was an employer, was the principal, agent, partner, joint venturer, officer, director,
23 controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or
24 predecessor in interest of some or all of the other Defendants, and was engaged with some or all of
25 the other defendants in a joint enterprise for profit, and bore such other relationships to some or all
26 of the other defendants so as to be liable for their conduct with respect to the matters alleged in
27 this Complaint. Plaintiff is further informed and believe and thereon allege that each Defendant
28 acted pursuant to and within the scope of the relationships alleged above, and that at all relevant

times, each Defendant knew or should have known about, authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other defendants. As used in this Complaint, "Defendant" means "Defendants and each of them," and refers to the Defendants named in the particular cause of action in which the word appears and includes Defendants TASTES ON THE FLY SAN FRANCISCO, LLC and DOES 1 to 100, inclusive.

10. At all times mentioned herein, each Defendant was the co-conspirator, agent, servant, employee, and/or joint venturer of each of the other defendants and was acting within the course and scope of said conspiracy, agency, employment, and/or joint venture and with the permission and consent of each of the other Defendants.

11. Plaintiff makes the allegations in this Complaint without any admission that, as to any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and Plaintiff reserves all of Plaintiff's rights to plead in the alternative.

IV. DESCRIPTION OF ILLEGAL PAY PRACTICES

12. Pursuant to the applicable Industrial Welfare Commission ("IWC") Wage Order ("Wage Order"), codified at California Code of Regulations, title 8, section 11050, Defendants are employers of Plaintiff within the meaning of Wage Order 5 and applicable Labor Code sections. Therefore, each of these Defendants is jointly and severally liable for the wrongs complained of herein in violation of the Wage Order and the Labor Code.

13. **Failure to pay wages for all hours worked at the legal minimum wage:** Defendants employed many of their employees, including Plaintiff, as hourly non-exempt employees. In California, an employer is required to pay hourly employees for all "hours worked," which includes all time that an employee is under the control of the employer and all time the employee is suffered and permitted to work. This includes the time an employee spends, either directly or indirectly, performing services which inure to the benefit of the employer.

14. Labor Code sections 1194 and 1197 require an employer to compensate employees for all "hours worked" at least at the minimum wage rate of pay as established by the IWC and the Wage Orders.

15. Plaintiff and similarly situated hourly non-exempt employees worked more minutes

1 per shift than Defendants credited them with having worked. Defendants failed to pay Plaintiff
2 and similarly situated employees all wages at the applicable minimum wage for all hours worked
3 due to Defendants' policies, practices, and/or procedures including, but not limited to, the
4 following:

5 (a) Requiring Plaintiff and similarly situated employees to line up to wait to
6 undergo and to undergo off-the-clock security checks prior to being permitted to clock in for the
7 start of their shifts;

8 (b) After the aforementioned security checks, Defendants required Plaintiff and
9 similarly situated employees to travel while they were off-the-clock from the security checkpoint
10 to the timeclock where they were to clock in for the start of their shifts; and

11 (c) Routinely requiring Plaintiff and similarly situated employees to perform
12 work-related tasks while they were off-the-clock during meal breaks, and after clocking out for the
13 end of their shifts, without compensation.

14 16. Plaintiff and similarly situated employees were not paid for this time resulting in
15 Defendants' failure to pay wages for all the hours Plaintiff and similarly situated employees
16 worked.

17 17. Therefore, Defendants suffered, permitted, and required their hourly non-exempt
18 employees to be subject to Defendants' control without paying wages for that time. This resulted
19 in Plaintiff and similarly situated employees working time for which they were not compensated
20 any wages, in violation of Labor Code sections 1194, 1197, and Wage Order 5.

21 18. **Failure to pay wages for overtime hours worked at the overtime rate of pay:**
22 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
23 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
24 which includes all time that an employee is under the control of the employer and all time the
25 employee is suffered or permitted to work. This includes the time an employee spends, either
26 directly or indirectly, performing services which inure to the benefit of the employer.

27 19. Labor Code sections 510 and 1194 and Wage Order 5 require an employer to
28 compensate employees at a higher rate of pay for hours worked in excess of eight (8) hours in a

workday, more than forty (40) hours in a workweek, and on any seventh consecutive day of work in a workweek:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

Labor Code section 510; Wage Order 5, §3.

20. Defendants failed to pay Plaintiff and similarly situated employees all wages at the applicable minimum wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring Plaintiff and similarly situated employees to line up to wait to undergo and to undergo off-the-clock security checks prior to being permitted to clock in for the start of their shifts;

(b) After the aforementioned security checks, Defendants required Plaintiff and similarly situated employees to travel while they were off-the-clock from the security checkpoint to the timeclock where they were to clock in for the start of their shifts; and

(c) Routinely requiring Plaintiff and similarly situated employees to perform work-related tasks while they were off-the-clock during meal breaks, and after clocking out for the end of their shifts, without compensation.

21. Plaintiff and similarly situated employees were not paid for this time resulting in Defendants' failure to pay wages for all the hours Plaintiff and similarly situated employees worked.

22. To the extent Plaintiff and similarly situated employees had already worked 8 hours in the day and/or on workweeks they had already worked 40 hours in a workweek and/or seven (7) days in a workweek, when this uncompensated time occurred, the employees should have been paid overtime for this unpaid time. This resulted in Plaintiff and similarly situated employees working time which should have been paid at the legal overtime rate but was not paid any wages

1 in violation of Labor Code sections 510, 1194, and Wage Order 5.

2 23. Defendants' foregoing policies, practices, and/or procedures resulted in Defendants
3 failing to pay Plaintiff and similarly situated employees for all overtime hours worked, in violation
4 of Labor Code sections 510, 1194, 1198, and Wage Order.

5 24. **Failure to authorize or permit all legally required and compliant meal periods**
6 **and/or failure to pay meal period premium wages:** Defendants often employed hourly non-
7 exempt employees, including the named Plaintiff and similarly situated employees, for shifts
8 longer than five (5) hours in length and shifts longer than ten (10) hours in length.

9 25. California law requires an employer to authorize or permit an uninterrupted meal
10 period of no less than thirty (30) minutes no later than the end of the employee's fifth hour of
11 work and a second meal period no later than the employee's tenth hour of work. Labor Code §512;
12 Wage Order 5, §11. If the employee is not relieved of all duties during a meal period, the meal
13 period shall be considered an "on duty" meal period and counted as time worked. A paid "on
14 duty" meal period is only permitted when (1) the nature of the work prevents an employee from
15 being relieved of all duty and (2) the parties have a written agreement agreeing to on-duty meal
16 periods. If the employee is not free to leave the work premises or worksite during the meal period,
17 even if the employee is relieved of all other duty during the meal period, the employee is subject
18 to the employer's control and the meal period is counted as time worked. If an employer fails to
19 provide an employee a meal period in accordance with the law, the employer must pay the
20 employee one (1) hour of pay at the employee's regular rate of pay for each workday that a legally
21 required and compliant meal period was not provided. Labor Code §226.7; Wage Order 5, §11.

22 26. Here, Plaintiff and similarly situated employees worked shifts long enough to
23 entitle them to meal periods under California law. Nevertheless, Defendants employed systemic
24 company policies, practices, and/or procedures that resulted in their failure to authorize or permit
25 meal periods to Plaintiff and similarly situated employees of no less than thirty (30) minutes for
26 each five-hour period of work as required by law. Such policies, practices, and/or procedures
27 included, but were not limited to, pressuring and/or requiring Plaintiff and similarly situated
28 employees to work without receiving meal periods. Furthermore, on occasions Defendants did

1 provide meal periods to Plaintiff and similarly situated employees, they were frequently
2 interrupted, untimely, taken while performing work-related tasks, and/or shorter than thirty (30)
3 minutes in violation of California law.

4 27. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a
5 meal period premium wage of one (1) additional hour of pay at their regular rate of compensation
6 for each workday the employees did not receive all legally required and compliant meal periods.
7 Defendants employed policies and procedures which ensured that employees did not receive any
8 meal period premium wages to compensate them for workdays in which they did not receive all
9 legally required and compliant meal periods.

10 28. The aforementioned policies, practices, and/or procedures of Defendants resulted in
11 Plaintiff and similarly situated employees not being provided with all legally required and
12 compliant meal periods and/or not receiving premium wages to compensate them for such
13 instances, all in violation of California law.

14 29. **Failure to authorize and permit all legally required and compliant rest periods**
15 **and/or failure to pay rest period premiums:** Defendants often employed non-exempt
16 employees, including the named Plaintiff and similarly situated employees, for shifts of least
17 three-and-a-half (3.5) hours.

18 30. California law requires every employer to authorize and permit an employee a rest
19 period of ten (10) net minutes for every four (4) hours worked or major fraction thereof. Labor
20 Code §226.7; Wage Order 5, §12. If the employer fails to authorize or permit a required rest
21 period, the employer must pay the employee one (1) hour of pay at the employee's regular rate of
22 compensation for each workday the employer did not authorize or permit a legally required rest
23 period. *Id.* Under California law, "[e]mployees are entitled to 10 minutes' rest for shifts from three
24 and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30
25 minutes for shifts of more than 10 hours up to 14 hours, and so on." *Brinker Restaurant Corp. v.*
26 *Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7; Wage Order 5, §12. Rest
27 periods, insofar as practicable, shall be in the middle of each work period. Wage Order 5, §12.
28 Additionally, the rest period requirement "obligates employers to permit – and authorizes

employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.*

31. In this case, Plaintiff and similarly situated employees regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed systemic company policies, practices, and/or procedures that resulted in their failure to authorize or permit all legally required and/or legally compliant rest periods to Plaintiff and similarly situated employees. Such policies, practices, and/or procedures included, but were not limited to, pressuring and/or requiring Plaintiff and similarly situated employees to work without receiving rest periods. Furthermore, when Defendants did provide meal periods to Plaintiff and similarly situated employees, they were frequently interrupted, untimely, taken while performing work-related tasks, and/or shorter than ten (10) minutes in violation of California law.

32. Additionally, Defendants failed to pay Plaintiff and similarly situated employees a rest period premium wage of one (1) additional hour of pay at their regular rate of compensation for each workday the employees did not receive all legally required and compliant rest periods. Defendants employed policies and procedures which ensured that employees did not receive any rest period premium wages to compensate them for workdays in which they did not receive all legally required and compliant rest periods.

33. The aforementioned policies, practices, and/or procedures of Defendants resulted in Plaintiff and similarly situated employees not being provided with all legally required and compliant rest periods and/or not receiving premium wages to compensate them for such instances all in violation of California law.

34. **Failure to provide accurate wage statements:** Labor Code section 226(a) provides, *inter alia*, that, upon paying an employee his or her wages, the employer must “furnish each of his or her employees ... an itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate

units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

35. Defendants committed direct violations of Labor Code section 226, through their policies, practices, and/or procedures, including, but not limited to failing to provide Plaintiff and other similarly situated employees accurate itemized wage statements showing the rate at which premium wages were paid.

36. As a derivative of Plaintiff’s claims above, Plaintiff alleges that Defendants failed to provide accurate wage and hour statements to him and other similarly situated employees who were subject to Defendants’ control for uncompensated time and who did not receive all their earned wages (including minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages), in violation of Labor Code section 226.

37. **Failure to timely pay final wages:** An employer is required to pay all unpaid wages timely after an employee’s employment ends. The wages are due immediately upon termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202.

38. As a result of the aforementioned violations of the Labor Code, Plaintiff alleges that he, and on information and belief, other similarly situated employees, were not paid their final wages in a timely manner as required by Labor Code section 203. Minimum wages, overtime wages, meal period premium wages, and/or rest period premium wages (all described above) were not paid at the time of Plaintiff’s and other similarly situated employees’ separation of employment, whether voluntarily or involuntarily, as required by Labor Code sections 201, 202, and 203.

V. CLASS DEFINITIONS AND CLASS ALLEGATIONS

39. Plaintiff brings this action on behalf of himself, on behalf of others similarly

1 situated, and on behalf of the general public, and as members of a Class defined as follows:

2 A. **Minimum Wage Class:** All current and former hourly non-exempt
3 employees employed by Defendants in California at any time from four (4) years prior to the filing
4 of the initial Complaint in this matter through the date notice is mailed to a certified class who
5 were not paid at least minimum wage for all time they were subject to Defendants' control.

6 B. **Overtime Class:** All current and former hourly non-exempt employees
7 employed by Defendants in California at any time from four (4) years prior to the filing of the
8 initial Complaint in this matter through the date notice is mailed to a certified class who worked
9 more than eight (8) hours in a workday, forty (40) hours in a workweek, and/or seven (7) days in a
10 workweek, to whom Defendants did not pay overtime wages.

11 C. **Meal Period Class:** All current and former hourly non-exempt employees
12 employed by Defendants in California at any time from four (4) years prior to the filing of the
13 initial Complaint in this matter through the date notice is mailed to a certified class who worked
14 shifts more than five (5) hours yet Defendants failed to authorize or permit all required duty-free
15 meal periods of not less than thirty (30) minutes.

16 D. **Rest Period Class:** All current and former hourly non-exempt employees
17 employed by Defendants in California at any time from four (4) years prior to the filing of the
18 initial Complaint in this matter through the date notice is mailed to a certified class who worked
19 shifts of at least three-and-a-half (3.5) hours who did not receive all required duty-free rest periods
20 of a net ten (10) minutes for every four (4) hours worked or major fraction thereof.

21 E. **Wage Statement Class:** All current and former hourly non-exempt
22 employees employed by Defendants in California at any time from one (1) year prior to the filing
23 of the initial Complaint in this action through the date notice is mailed to a certified class who
24 received inaccurate or incomplete wage and hour statements.

25 F. **Waiting Time Class:** All current and former hourly non-exempt employees
26 employed by Defendants in California at any time from three (3) years prior to the filing of the
27 initial Complaint in this action through the date notice is mailed to a certified class who did not
28 receive payment of all unpaid wages upon separation of employment within the statutory time

1 period.

2 G. **California Class:** All aforementioned classes are herein collectively
3 referred to as the "California Class."

4 40. There is a well-defined community of interest in the litigation and the classes are
5 ascertainable:

6 A. **Numerosity:** While the exact number of class members in each class is
7 unknown to Plaintiff at this time, the Plaintiff classes are so numerous that the individual joinder
8 of all members is impractical under the circumstances of this case.

9 B. **Common Questions Predominate:** Common questions of law and fact
10 exist as to all members of the Plaintiff classes and predominate over any questions that affect only
11 individual members of each class. The common questions of law and fact include, but are not
12 limited to:

13 i. Whether Defendants violated Labor Code sections 1194 and 1197
14 by not paying wages at the minimum wage rate for all time that the Minimum Wage Class
15 Members were subject to Defendants' control;

16 ii. Whether Defendants violated Labor Code sections 510 and 1194 by
17 not paying the Overtime Class Members at the applicable overtime rate for working in excess of
18 eight (8) hours in a workday, in excess of forty (40) hours in a workweek, and/or seven (7) days in
19 a workweek;

20 iii. Whether Defendants violated Labor Code sections 512 and 226.7, as
21 well as the applicable Wage Order, by employing the Meal Period Class Members without
22 providing all compliant and/or required meal periods and/or paying meal period premium wages;

23 iv. Whether Defendants violated Labor Code section 226.7 by
24 employing the Rest Period Class Members without providing all compliant and/or required rest
25 periods and/or paying rest period premium wages;

26 v. Whether Defendants failed to provide the Wage Statement Class
27 Members with accurate itemized statements at the time they received their itemized statements;

28 vi. Whether Defendants failed to provide the Waiting Time Class

Members with all of their earned wages upon separation of employment within the statutory time period;

vii. Whether Defendants committed unlawful business acts or practice within the meaning of Business and Professions Code sections 17200, *et seq.*

viii. Whether Class Members are entitled to unpaid wages, penalties, and other relief pursuant to their claims;

ix. Whether, as a consequence of Defendants' unlawful conduct, the Class Members are entitled to restitution, and/or equitable relief; and

x. Whether Defendants' affirmative defenses, if any, raise any common issues of law or fact as to Plaintiff and as to Class Members as a whole.

C. **Typicality:** Plaintiff's claims are typical of the claims of the class members in each of the classes. Plaintiff and members of the Minimum Wage Class sustained damages arising out of Defendants' failure to pay wages at least at minimum wage for all time the employees were subject to Defendants' control. Plaintiff and members of the Overtime Wage Class sustained damages arising out of Defendants' failure to pay overtime wages for overtime hours worked. Plaintiff and members of the Meal Period Class sustained damages arising out of Defendants' failure to provide non-exempt employees with all required meal periods and/or meal periods that were duty-free and not less than thirty (30) minutes and/or failure to pay meal period premium wages as compensation. Plaintiff and members of the Rest Period Class sustained damages arising out of Defendants' failure to provide non-exempt employees with all required rest periods and/or rest periods that were duty-free and of a net ten (10) minutes and/or failure to pay rest period premium wages as compensation. Plaintiff and members of the Wage Statement Class sustained damages arising out of Defendants' failure to furnish them with accurate itemized wage statements in compliance with Labor Code section 226. Plaintiff and members of the Waiting Time Class sustained damages arising out of Defendants' failure to provide all unpaid yet earned wages due upon separation of employment within the statutory time limit.

D. **Adequacy of Representation:** Plaintiff will fairly and adequately protect the interests of the members of each class. Plaintiff has no interest that is adverse to the interests

of the other class members.

E. **Superiority:** A class action is superior to other available means for the fair and efficient adjudication of this controversy. Because individual joinder of all members of each class is impractical, class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. The expenses and burdens of individual litigation would make it difficult or impossible for individual members of each class to redress the wrongs done to them, while important public interests will be served by addressing the matter as a class action. The cost to and burden on the court system of adjudication of individualized litigation would be substantial, and substantially more than the costs and burdens of a class action. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

F. **Public Policy Consideration:** Employers throughout the state violate wage and hour laws. Current employees often are afraid to assert their rights out of fear of direct or indirect retaliation. Former employees fear bringing actions because they perceive their former employers can blacklist them in their future endeavors with negative references or by other means. Class actions provide the class members who are not named in the Complaint with a type of anonymity that allows for vindication of their rights.

FIRST CAUSE OF ACTION

FAILURE TO PAY WAGES FOR ALL HOURS OF WORK AT THE LEGAL MINIMUM

WAGE RATE IN VIOLATION OF LABOR CODE SECTIONS 1194 AND 1197

(Against All Defendants by Plaintiff and the Minimum Wage Class)

41. Plaintiff incorporates all paragraphs above as though fully set forth herein.

42. At all times relevant to this Complaint, Plaintiff and the Minimum Wage Class were hourly non-exempt employees of Defendants.

43. Pursuant to Labor Code sections 1194, 1197, and the Wage Order, Plaintiff and the Minimum Wage Class are entitled to receive wages for all hours worked, i.e., all time they were subject to Defendants' control, and those wages must be paid at least at the minimum wage rate in

effect during the time the employees earned the wages.

44. Defendants' policies, practices, and/or procedures required Plaintiff and the Minimum Wage Class to be engaged, suffered, or permitted to work without being paid wages for all of the time in which they were subject to Defendants' control.

45. Defendants employed policies, practices, and/or procedures including, but not limited to, the following:

(a) Requiring Plaintiff and the Minimum Wage Class to line up to wait to undergo and to undergo off-the-clock security checks prior to being permitted to clock in for the start of their shifts;

(b) After the aforementioned security checks, Defendants required Plaintiff and the Minimum Wage Class to travel while they were off-the-clock from the security checkpoint to the timeclock where they were to clock in for the start of their shifts; and

(c) Routinely requiring Plaintiff and the Minimum Wage Class to perform work-related tasks while they were off-the-clock during meal breaks, and after clocking out for the end of their shifts, without compensation.

46. Plaintiff and the Minimum Wage Class were not paid for this time resulting in Defendants' failure to pay minimum wages for all the hours Plaintiff and the Minimum Wage Class worked.

47. As a result of Defendants' unlawful conduct, Plaintiff and the Minimum Wage Class have suffered damages in an amount subject to proof, to the extent that they were not paid wages at a minimum wage rate for all hours worked.

48. Pursuant to Labor Code sections 1194 and 1194.2, Plaintiff and the Minimum Wage Class are entitled to recover unpaid minimum wage, interest thereon, liquidated damages in the amount of their unpaid minimum wage, and attorneys' fees and costs.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF LABOR CODE SECTIONS

510 and 1194

(Against All Defendants by Plaintiff and the Overtime Class)

1 49. Plaintiff incorporates all paragraphs above as though fully set forth herein.

2 50. At times relevant to this Complaint, Plaintiff and the Overtime Class were hourly
3 non-exempt employees of Defendants, covered by Labor Code sections 510 and 1194 and Wage
4 Order 5.

5 51. Pursuant to Labor Code sections 510 and 1194 and Wage Order 5, hourly non-
6 exempt employees are entitled to receive a higher rate of pay for all hours worked in excess of
7 eight (8) hours in a workday, forty (40) hours in a workweek, and on the seventh day of work in a
8 workweek.

9 52. Labor Code section 510, subdivision (a), states in relevant part:

10
11 “Eight hours of labor constitutes a day's work. Any work in excess of eight hours
12 in one workday and any work in excess of 40 hours in any one workweek and the
13 first eight hours worked on the seventh day of work in any one workweek shall be
14 compensated at the rate of no less than one and one-half times the regular rate of
15 pay for an employee. Any work in excess of 12 hours in one day shall be
16 compensated at the rate of no less than twice the regular rate of pay for an
17 employee. In addition, any work in excess of eight hours on any seventh day of a
18 workweek shall be compensated at the rate of no less than twice the regular rate
19 of pay of an employee. Nothing in this section requires an employer to combine
20 more than one rate of overtime compensation in order to calculate the amount to
21 be paid to an employee for any hour of overtime work.”

22 53. Despite California law requiring employers to pay employees a higher rate of pay
23 for all hours worked more than eight (8) hours in a workday, more than forty (40) hours in a
24 workweek, and on the seventh day of work in a workweek, Defendants failed to pay all overtime
25 wages to Plaintiff and the Overtime Class for their daily overtime hours worked.

26 54. Specifically, Defendants' employed policies, practices, and/or procedures
27 including, but not limited to, the following:

28 (a) Requiring Plaintiff and Overtime Class members to line up to wait to
undergo and to undergo off-the-clock security checks prior to being permitted to clock in for the
start of their shifts;

 (b) After the aforementioned security checks, Defendants required Plaintiff and
the Overtime Class to travel while they were off-the-clock from the security checkpoint to the
timeclock where they were to clock in for the start of their shifts; and

(c) Routinely requiring Plaintiff and the Overtime Class to perform work-related tasks while they were off-the-clock during meal breaks, and after clocking out for the end of their shifts, without compensation.

55. Plaintiff and the Overtime Class were not paid for this time resulting in Defendants' failure to pay wages for all the hours Plaintiff and the Overtime Class worked.

56. To the extent that the foregoing unpaid time resulted from Plaintiff and the Overtime Class being subject to the control of Defendants when they worked more than eight (8) hours in a workday, more than forty (40) hours in a workweek, and/or seven days in a workweek, Defendants failed to pay them at their overtime rate of pay for all the overtime hours they worked.

57. As a result of Defendants' unlawful conduct, Plaintiff and the Overtime Class have suffered damages in an amount subject to proof, to the extent that they were not paid at their overtime rate of pay for all hours worked which constitute overtime.

58. Pursuant to Labor Code section 1194, Plaintiff and the Overtime Class are entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and attorneys' fees and costs

THIRD CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT MEAL PERIODS IN VIOLATION OF LABOR CODE SECTIONS 512 AND 226.7

(Against All Defendants by Plaintiff and the Meal Period Class)

59. Plaintiff incorporates all paragraphs above as though fully set forth herein.

60. At all times relevant to this Complaint, Plaintiff and the Meal Period Class were hourly non-exempt employees of Defendants, covered by Labor Code sections 512 and 226.7 and the Wage Order.

61. California law requires an employer to authorize or permit an employee an uninterrupted meal period of no less than thirty (30) minutes in which the employee is relieved of all duties and the employer relinquishes control over the employee's activities no later than the end of the employee's fifth hour of work and a second meal period no later than the employee's tenth hour of work. Labor Code sections 226.7, 512; Wage Order 5, §11; *Brinker Rest. Corp. v.*

1 *Super Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004. If the employer requires the employee to remain at
2 the work site or facility during the meal period, the meal period must be paid. This is true even
3 where the employee is relieved of all work duties during the meal period. *Bono Enterprises, Inc. v.*
4 *Bradshaw* (1995) 32 Cal.App.4th 968. Labor Code section 226.7 provides that if an employee
5 does not receive a required meal or rest period that “the employer shall pay the employee one
6 additional hour of pay at the employee’s regular rate of compensation for each work day that the
7 meal or rest period is not provided.”

8 62. In this case, Plaintiff and the Meal Period Class worked shifts long enough to
9 entitle them to meal periods under California law. Nevertheless, Defendants employed policies,
10 practices, and/or procedures that resulted in their failure to authorize or permit meal periods to
11 Plaintiff and the Meal Period Class of no less than thirty (30) minutes for each five-hour period of
12 work as required by law. Such policies, practices, and/or procedures included, but were not
13 limited to, pressuring and/or requiring Plaintiff and the Meal Period Class to work without
14 receiving meal periods. Furthermore, when Defendants did provide meal periods to Plaintiff and
15 Meal Period Class, they were frequently interrupted, untimely, taken while performing work-
16 related tasks, and/or shorter than thirty (30) minutes in violation of California law.

17 63. Additionally, Defendants failed to pay Plaintiff and the Meal Period Class one (1)
18 hour of pay at their regular rate of pay for each workday they did not receive all legally required
19 and legally compliant meal periods. Defendants lacked a policy and procedure for compensating
20 Plaintiff and the Meal Period Class with premium wages when they did not receive all legally
21 required and legally compliant meal periods.

22 64. Defendants’ unlawful conduct alleged herein occurred in the course of employment
23 of Plaintiff and the Meal Period Class and such conduct has continued through the filing of this
24 Complaint.

25 65. Because Defendants failed to provide employees with meal periods in compliance
26 with the law, Defendants are liable to Plaintiff and the Meal Period Class for one (1) hour of
27 additional pay at the regular rate of compensation for each workday that Defendants did not
28 provide all legally required and legally compliant meal periods, pursuant to Labor Code section

226.7 and the Wage Order.

66. Plaintiff, on behalf of himself and the Meal Period Class, seeks damages and all other relief allowable, including a meal period premium wage for each workday Defendants failed to provide all legally required and legally compliant meal periods, plus pre-judgment interest.

FOURTH CAUSE OF ACTION

FAILURE TO AUTHORIZE OR PERMIT REQUIRED REST PERIODS IN VIOLATION OF LABOR CODE SECTION 226.7

(Against All Defendants by Plaintiff and the Rest Period Class)

67. Plaintiff incorporates all paragraphs above as though fully set forth herein.

68. At all times relevant to this Complaint, Plaintiff and the Rest Period Class were employees of Defendants, covered by Labor Code section 226.7 and Wage Order 5.

69. California law requires that “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof....” Wage Order 5, §12. Employees are entitled to 10 minutes rest for shifts from three and one-half to six hours in length, 20 minutes for shifts of more than six hours up to 10 hours, 30 minutes for shifts of more than 10 hours up to 14 hours, and so on.” *Brinker Restaurant Corp. v. Sup. Ct. (Hohnbaum)* (2012) 53 Cal.4th 1004, 1029; Labor Code §226.7. Additionally, the rest period requirement “obligates employers to permit – and authorizes employees to take – off-duty rest periods.” *Augustus v. ABM Security Services, Inc.*, (2016) 5 Cal.5th 257, 269. That is, during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time. *Id.* If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each work day that the rest period is not provided.” Wage Order 5, §12; Labor Code §226.7.

70. In this case, Plaintiff and the Rest Period Class regularly worked shifts of more than three-and-a-half (3.5) hours. Nevertheless, Defendants employed policies, practices, and/or

1 procedures that resulted in their failure to authorize or permit all legally required and compliant
 2 rest periods to Plaintiff and the Rest Period Class. Such policies, practices, and/or procedures
 3 included, but were not limited to, pressuring and/or requiring Plaintiff and the Rest Period Class to
 4 work without receiving rest periods. Furthermore, when Defendants did provide meal periods to
 5 Plaintiff and the Rest Period Class, they were frequently interrupted, untimely, taken while
 6 performing work-related tasks, and/or shorter than ten (10) minutes in violation of California law.

7 71. Additionally, Defendants failed to pay Plaintiff and the Rest Period Class one (1)
 8 hour of pay at their regular rate of pay for each workday they did not receive all legally required
 9 and legally compliant rest periods. Defendants lacked a policy and procedure for compensating
 10 Plaintiff and the Rest Period Class with premium wages when they did not receive all legally
 11 required and legally compliant rest periods.

12 72. Defendants' unlawful conduct alleged herein occurred in the course of employment
 13 of Plaintiff and the Rest Period Class and such conduct has continued through the filing of this
 14 Complaint.

15 73. Because Defendants failed to provide employees with rest periods in compliance
 16 with the law, Defendants are liable to Plaintiff and the Rest Period Class for one (1) hour of
 17 additional pay at the regular rate of compensation for each workday that Defendants did not
 18 provide all legally required and legally compliant rest periods, pursuant to Labor Code section
 19 226.7 and the Wage Order.

20 74. Plaintiff, on behalf of himself and the Rest Period Class, seeks damages and all
 21 other relief allowable, including a rest period premium wage for each workday Defendants failed
 22 to provide all legally required and legally compliant rest periods, plus pre-judgment interest.

23 **FIFTH CAUSE OF ACTION**

24 **FAILURE TO PROVIDE COMPLETE AND ACCURATE WAGE STATEMENTS IN** 25 **VIOLATION OF LABOR CODE SECTION 226**

26 **(Against All Defendants by Plaintiff and the Wage Statement Class)**

27 75. Plaintiff incorporates all paragraphs above as though fully set forth herein.

28 76. At all times relevant to this Complaint, Plaintiff and the Wage Statement Class

1 were hourly, non-exempt employees of Defendants, covered by Labor Code section 226.

2 77. Pursuant to Labor Code section 226, subdivision (a), Plaintiff and the Wage
3 Statement Class were entitled to receive, semimonthly or at the time of each payment of wages, an
4 itemized wage statement accurately stating the following:

5 (1) gross wages earned, (2) total hours worked by the employee, except for any
6 employee whose compensation is solely based on a salary and who is exempt from
7 payment of overtime under subdivision (a) of Section 515 or any applicable order of
8 the Industrial Welfare Commission, (3) the number of piece-rate units earned and
9 any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
10 deductions, provided that all deductions made on written orders of the employee
11 may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
12 dates of the period for which the employee is paid, (7) the name of the employee
13 and his or her social security number, except that by January 1, 2008, only the last
14 four digits of his or her social security number or an employee identification number
15 other than a social security number may be shown on the itemized statement, (8) the
16 name and address of the legal entity that is the employer, and (9) all applicable
17 hourly rates in effect during the pay period and the corresponding number of hours
18 worked at each hourly rate by the employee.

13 78. Defendants committed direct violations of Labor Code section 226, through their
14 policies, practices, and/or procedures, including, but not limited to failing to provide Plaintiff and
15 the Wage Statement Class with accurate itemized wage statements showing the rate at which
16 premium wages were paid.

17 79. Further, and as a derivative of Defendants' claims above, Plaintiff alleges that
18 Defendants failed to provide accurate wage and hour statements to him and the Wage Statement
19 Class who were subject to Defendants' control for uncompensated time and who did not receive
20 all their earned wages (including minimum wages, overtime wages, meal period premium wages,
21 and/or rest period premium wages), in violation of Labor Code section 226.

22 80. Defendants provided Plaintiff and the Wage Statement Class with itemized
23 statements which stated inaccurate information including, but not limited to, the number of hours
24 worked, the gross wages earned, and the net wages earned.

25 81. Defendants' failure to provide Plaintiff and the Wage Statement Class with
26 accurate wage statements was knowing and intentional. Defendants had the ability to provide
27 Plaintiff and the Wage Statement Class with accurate wage statements but intentionally provided
28 wage statements they knew were not accurate. Defendants knowingly and intentionally put in

1 place practices which deprived employees of wages and resulted in Defendants knowingly and
2 intentionally providing inaccurate wage statements. These practices included Defendants' failure
3 to include all hours worked and all wages due.

4 ~~82.~~ 82. As a result of Defendants' unlawful conduct, Plaintiff and the Wage Statement
5 Class have suffered injury. The absence of accurate information on their wage statements has
6 prevented earlier challenges to Defendants' unlawful pay practices, will require discovery and
7 mathematical computations to determine the amount of wages owed, and will cause difficulty and
8 expense in attempting to reconstruct time and pay records. Defendants' conduct led to the
9 submission of inaccurate information about wages and amounts deducted from wages to state and
10 federal government agencies. As a result, Plaintiff and the Wage Statement Class are required to
11 participate in this lawsuit and create more difficulty and expense for Plaintiff and the Wage
12 Statement Class from having to reconstruct time and pay records than if Defendants had complied
13 with their legal obligations.

14 83. Pursuant to Labor Code section 226(e), Plaintiff and the Wage Statement Class are
15 entitled to recover fifty (50) dollars per employee for the initial pay period in which a section 226
16 violation occurred and one hundred dollars per employee per violation for each subsequent pay
17 period, not to exceed an aggregate penalty of four thousand (4,000) dollars per employee.

18 84. Pursuant to Labor Code section 226(h), Plaintiff and the Wage Statement Class are
19 entitled to bring an action for injunctive relief to ensure Defendants' compliance with Labor Code
20 section 226(a). Injunctive relief is warranted because Defendants continue to provide currently
21 employed Wage Statement Class members with inaccurate wage statements in violation of Labor
22 Code section 226(a) and currently employed Wage Statement Class members have no adequate
23 legal remedy for the continuing injuries that will be suffered as a result of Defendants' ongoing
24 unlawful conduct. Injunctive relief is the only remedy available for ensuring Defendants'
25 compliance with Labor Code section 226(a).

26 85. Pursuant to Labor Code sections 226(e) and 226(h), Plaintiff and the Wage
27 Statement Class are entitled to recover the full amount of penalties due under Section 226(e),
28 reasonable attorneys' fees, and costs of suit.

SIXTH CAUSE OF ACTION

**FAILURE TO PAY ALL WAGES TIMELY UPON SEPARATION OF EMPLOYMENT IN
VIOLATION OF LABOR CODE SECTIONS 201, 202, AND 203**

(Against All Defendants by Plaintiff and the Waiting Time Class)

86. Plaintiff incorporates all paragraphs above as though fully set forth herein.

87. At all times relevant to this Complaint, Plaintiff and the Waiting Time Class were employees of Defendants, covered by Labor Code sections 201 and 202.

88. An employer is required to pay all unpaid wages timely after an employee's employment ends. The wages are due immediately upon termination or within seventy-two (72) hours of resignation. Labor Code §§201, 202. If an employee gave seventy-two (72) hours previous notice, they were entitled to payment of all wages earned and unpaid at the time of resignation. *Id.*

89. Defendants failed to pay Plaintiff and on information and belief, the Waiting Time Class, with all wages earned and unpaid prior to separation of employment, in accordance with either Labor Code section 201 or 202. Plaintiff is informed and believes and thereon alleges that at all relevant times within the limitations period applicable to this cause of action, Defendants maintained a policy or practice of not paying hourly employees all earned wages timely upon separation of employment.

90. Defendants' failure to pay Plaintiff and the Waiting Time Class with all wages earned prior to separation of employment timely in accordance with Labor Code sections 201 and 202 was willful. Defendants had the ability to pay all wages earned by hourly workers prior to separation of employment in accordance with Labor Code sections 201 and 202, but intentionally adopted policies or practices incompatible with the requirements of Labor Code sections 201 and 202. Defendants' practices include failing to pay at least minimum wage for all time worked, overtime wages for overtime hours worked, meal period premium wages, and/or rest period premium wages. When Defendants failed to pay Plaintiff and the Waiting Time Class all earned wages timely upon separation of employment, they knew what they were doing and intended to do what they did.

91. Pursuant to either Labor Code section 201 or 202, Plaintiff and the Waiting Time Class are entitled to all wages earned prior to separation of employment that Defendants have yet to pay them.

92. Pursuant to Labor Code section 203, Plaintiff and the Waiting Time Class are entitled to continuation of their wages, from the day their earned and unpaid wages were due until paid, up to a maximum of thirty (30) days.

93. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have suffered damages in an amount, subject to proof, to the extent they were not paid for all wages earned prior to separation.

94. As a result of Defendants' conduct, Plaintiff and the Waiting Time Class have suffered damages in an amount, subject to proof, to the extent they were not paid all continuation wages owed under Labor Code section 203.

95. Plaintiff and the Waiting Time Class are entitled to recover the full amount of their unpaid wages, continuation wages under Labor Code section 203, and interest thereon.

SEVENTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES, IN VIOLATION OF BUSINESS AND PROFESSIONS

CODE SECTION 17200, et seq.

(Against All Defendants by Plaintiff and the California Class)

96. Plaintiff incorporates all paragraphs above as though fully set forth herein.

97. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of Business and Professions Code section 17200. This unfair conduct includes Defendants' use of policies, practices, and/or procedures which resulted in: failure to pay employees at least at the minimum wage rate for all hours which they worked; failure to pay overtime wages for all overtime hours worked; failure to authorize or permit all legally required and compliant meal periods or pay meal period premium wages; failure to authorize or permit all legally required and compliant rest periods or pay rest period premium wages; failure to provide accurate wage and hour statements; and failure to timely pay all wages due upon separation of employment. Due to their unfair and unlawful business practices in violation of the Labor Code,

Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to pay minimum wages for all hours worked; authorize or permit all legally required and compliant meal periods and/or pay meal period premium wages; authorize or permit all legally required and compliant rest periods and/or pay rest period premium wages; provide accurate wage and hour statements; and timely pay all wages due upon separation of employment.

98. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the California Class have suffered injury in fact and lost money or property, as described in more detail above.

99. Pursuant to Business and Professions Code section 17203, Plaintiff and the California Class are entitled to restitution of all wages and other monies rightfully belonging to them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business practices. Plaintiff also seeks an injunction against Defendants on behalf of the California Class enjoining Defendants, and any and all persons acting in concert with them, from engaging in each of the unlawful policies, practices, and/or procedures set forth herein.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF ON HIS OWN BEHALF AND ON BEHALF OF THOSE SIMILARLY SITUATED, PRAYS AS FOLLOWS:

ON THE FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH AND SEVENTH CAUSES OF ACTION:

1. That the Court determine that this action may be maintained as a class action (for the entire California Class and/or any and all of the specified sub-classes) pursuant to Code of Civil Procedure section 382 and any other applicable law;

2. That the named Plaintiff be designated as a class representative for the California Class (and all sub-classes thereof);

3. For a declaratory judgment that the policies, practices, and/or procedures complained herein are unlawful; and

4. For an injunction against Defendants enjoining them, and any and all persons

1 acting in concert with them, from engaging in each of the unlawful policies, practices, and/or
 2 procedures set forth herein.

3 **ON THE FIRST CAUSE OF ACTION:**

4 1. That Defendants be found to have violated the minimum wage provisions of the
 5 Labor Code and the IWC Wage Order as to Plaintiff and the Minimum Wage Class;

6 2. For damages, according to proof, including but not limited to unpaid wages;

7 3. For any and all legally applicable penalties;

8 4. For liquidated damages pursuant to Labor Code section 1194.2;

9 5. For pre-judgment interest, including but not limited to that recoverable under Labor
 10 Code section 1194, and post-judgment interest;

11 6. For attorneys' fees and costs of suit, including but not limited to that recoverable
 12 under Labor Code section 1194;

13 7. For pre-judgment interest, including but not limited to that recoverable under Labor
 14 Code section 218.6, and post-judgment interest; and,

15 8. For such other further relief, in law and/or equity, as the Court deems just or
 16 appropriate.

17 **ON THE SECOND CAUSE OF ACTION:**

18 1. That Defendants be found to have violated the overtime provisions of the Labor
 19 Code and the IWC Wage Order as to Plaintiff and the Overtime Class;

20 2. For damages, according to proof, including but not limited to unpaid wages;

21 3. For any and all legally applicable penalties;

22 4. For pre-judgment interest, including but not limited to that recoverable under Labor
 23 Code section 1194, and post-judgment interest;

24 5. For attorneys' fees and costs of suit, including but not limited to that recoverable
 25 under Labor Code section 1194; and

26 6. For such other further relief, in law and/or equity, as the Court deems just or
 27 appropriate.

28 ///

ON THE THIRD CAUSE OF ACTION:

1. That Defendants be found to have violated the meal period provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Meal Period Class;
2. For damages, according to proof, including unpaid premium wages;
3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FOURTH CAUSE OF ACTION:

1. That Defendants be found to have violated the rest period provisions of the Labor Code and the IWC Wage Order as to Plaintiff and the Rest Period Class;
2. For damages, according to proof, including unpaid premium wages;
3. For any and all legally applicable penalties;
4. For pre-judgment interest, including but not limited to that recoverable under Labor Code section 218.6, and post-judgment interest; and
5. For such other further relief, in law and/or equity, as the Court deems just or appropriate.

ON THE FIFTH CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code regarding accurate itemized paystubs as to Plaintiff and the Wage Statement Class;
2. For damages and/or penalties, according to proof, including damages and/or statutory penalties under Labor Code section 226, subdivision (e), and any other legally applicable damages or penalties;
3. For pre-judgment interest and post-judgment interest;
4. For an injunction against Defendants enjoining them, and any and all persons acting in concert with them, from engaging in violations of Labor Code section 226(a);
5. For attorneys' fees and costs of suit, including but not limited to that recoverable

1 under Labor Code section 226, subdivision (e); and,

2 6. For such other further relief, in law and/or equity, as the Court deems just or
3 appropriate.

4 **ON THE SIXTH CAUSE OF ACTION:**

5 1. That Defendants be found to have violated the provisions of the Labor Code
6 regarding payment of all unpaid wages due upon resignation or termination as to Plaintiff and the
7 Waiting Time Class;

8 2. For damages and/or penalties, according to proof, including damages and/or
9 statutory penalties under Labor Code section 203 and any other legally applicable damages or
10 penalties;

11 3. For pre-judgment interest, including under Labor Code section 218.6, and post-
12 judgment interest; and,

13 4. For such other further relief, in law and/or equity, as the Court deems just or
14 appropriate.

15 **ON THE SEVENTH CAUSE OF ACTION:**

16 1. That Defendants be found to have violated Business and Professions Code sections
17 17200, *et seq.*, for the conduct alleged herein as to the California Class;

18 2. A declaratory judgment that the practices complained herein are unlawful;

19 3. An injunction against Defendants enjoining them, and any and all persons acting in
20 concert with them, from engaging in each of the unlawful practices, policies and patterns set forth
21 herein;

22 4. For restitution to the full extent permitted by law; and

23 5. For such other further relief, in law and/or equity, as the Court deems just or
24 appropriate.

25 ///

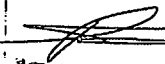
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1 Dated: September 16, 2021

LAVI & EBRAHIMIAN, LLP
OTKUPMAN LAW FIRM, A LAW CORPORATION

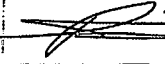
2
3
4 By: 
5 Joseph Lavi, Esq.
6 Vincent C. Granberry, Esq.
7 Anwar D. Burton, Esq.
8 Roman Otkupman, Esq.
9 Attorneys for Plaintiff ADRIAN YEPEZ,
10 on behalf of himself and others similarly situated

11 **DEMAND FOR JURY TRIAL**

12 Plaintiff ADRIAN YEPEZ demands a trial by jury for himself and the California Class on
13 all claims so triable.

14 Dated: September 16, 2021

LAVI & EBRAHIMIAN, LLP
OTKUPMAN LAW FIRM, A LAW CORPORATION

15
16 By: 
17 Joseph Lavi, Esq.
18 Vincent C. Granberry, Esq.
19 Anwar D. Burton, Esq.
20 Roman Otkupman, Esq.
21 Attorneys for Plaintiff ADRIAN YEPEZ,
22 on behalf of himself and others similarly situated
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Roman Otkupman, Esq. Bar No. 249423 Otkupman Law Firm, ALC 5743 Corsa Ave., Suite 123 Westlake Village, CA 91362 TELEPHONE NO.: (818) 293-5623 FAX NO.: (888) 850-1310 ATTORNEY FOR (Name): Plaintiff Adrian Yepez		FOR COURT USE ONLY Electronically FILED by Superior Court of California, County of San Mateo ON 9/16/2021 By <u>/s/ Anthony Berini</u> Deputy Clerk	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS: 400 County Center, Room A MAILING ADDRESS: -CITY AND ZIP CODE: Redwood City, CA 94063 BRANCH NAME: Southern Branch: Hall of Justice and Records		CASE NUMBER: 21-CIV-05010 JUDGE: DEPT:	
CASE NAME: Adrian Yepez v. Tastes On The Fly San Francisco, LLC			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)		<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	
<input type="checkbox"/> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER: 21-CIV-05010 JUDGE: DEPT:	

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

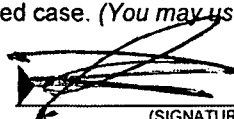
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Seven (7)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: September 16, 2021

Roman Otkupman

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment


Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

 <p align="center">SUPERIOR COURT OF SAN MATEO COUNTY Civil Division 400 County Center, 1st Floor, Room A Redwood City, CA 94063 (650) 261-5100 www.sanmateocourt.org</p>	<p align="center">FOR COURT USE ONLY</p> <p align="center">FILED</p> <p align="center">SAN MATEO COUNTY</p> <p align="center">9/16/2021</p> <p align="center">Clerk of the Superior Court /s/ Anthony Berini DEPUTY CLERK</p> <hr/> <p>CASE NUMBER: 21-CIV-05010</p>
<p>PETITIONER/PLAINTIFF: ADRIAN YEPEZ, ON BEHALF OF HIMSELF AND OTHER SIMILIARRLY SITUATED</p>	
<p>RESPONDENT/DEFENDANT: TASTES ON THE FLY SAN FRANCISCO, LLC; DOES 1 TO 100, INCLUSIVE</p>	
<p align="center">NOTICE OF ASSIGNMENT FOR ALL PURPOSES (CIVIL) AND NOTICE OF CASE MANAGEMENT CONFERENCE</p>	

By order of the Presiding Judge pursuant to San Mateo County Superior Court Local Rule 3.200(a) the above entitled matter is assigned for all purposes to: Danny Y. Chou in Department 22.

An Initial Case Management Conference is set before the Civil Commissioner, as follows:

DATE: 1/18/2022

TIME: 10:00 AM

LOCATION: 1050 Mission Road, South San Francisco, CA 94080

APPEARANCES SHALL BE REMOTE ONLY. Please visit our website at for information on remote appearances:

https://www.sanmateocourt.org/general_info/remote_appearance.php

ASSIGNED DEPARTMENT INFORMATION

To schedule a Law and Motion Hearing, please see Local Rule 3.402, or visit the assigned Judicial Officer's webpage at: www.sanmateocourt.org/civiljudges.

Contact information for your assigned department is as follows:

Judicial Officer	Department Phone	Department E-mail
Danny Y. Chou	650-261-5122	Dept22@sanmateocourt.org

CASE MANAGEMENT CONFERENCE INFORMATION

You are hereby given notice of your Initial Case Management Conference. The date, time and department are noted above.

1. In accordance with applicable California Rules of the Court and Local Rules, you are hereby ordered to:
 - a) Serve all named defendants and file proofs of service on those defendants with the court within 60-days of filing the complaint (CRC 3.110(b); Local Rule 3.804).
 - b) Serve a copy of this Notice, blank form of the Case Management Statement and ADR Information Package on all named parties in this action (Local Rule 3.804(a)). Documents are available online under the CIVIL CMC Packet section at: http://sanmateocourt.org/court_divisions/civil/
 - c) File and serve a completed Case Management Statement at least 15 days before the Case Management Conference (CRC 3.725; Local Rule 3.805(c)). Failure to do so may result in monetary sanctions or the continuance of the CMC.

d) Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than 30 days before the date set for the Case Management Conference (Local Rule 3.805(b)).

2. Parties may proceed to an Appropriate Dispute Resolution process ("ADR") by filing a *Stipulation and Order to ADR* (Local Form ADR-CV-1). File and serve the completed *Stipulation and Order to ADR* form at least 12 days prior to the Case Management Conference (Local Rule 3.805(f)). You may find this form and information regarding the Civil ADR Program online at http://sanmateocourt.org/court_divisions/adr/civil/

For additional information, you may visit the Judicial officer's webpage at: www.sanmateocourt.org/civiljudges

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I am the clerk of this Court, not a party to this cause; that I served a copy of this notice on the below date, ☐ by hand ☐ by electronic service to the parties or their counsel of record at the email addresses set forth below and shown by the records of this Court or ☒ by placing a copy thereof in separate sealed envelopes addressed to the address shown by the records of this Court, and by then sealing said envelopes and depositing same, with postage fully pre-paid thereon, in the United States Mail at Redwood City, California.

Date: 9/16/2021

Neal I Taniguchi, Court Executive Officer/Clerk

By: /s/ Anthony Berini

Anthony Berini, Deputy Clerk

Notice being served on:

ROMAN OTKUPMAN
OTKUPMAN LAW FIRM
5743 CORSA AVE SUITE 123
WESTLAKE VILLAGE CA 91362

PROOF OF SERVICE

I am over the age of eighteen years and not a party to the within entitled action. My business address is 425 California Street, Suite 2100, San Francisco, CA 94104.

On October 8, 2021, I served a copy of the attached:

**1. DEFENDANT TASTES OPN THE FLY SLO, LLC, OF REMOVAL OF ACTION
UNDER 28 U.S.C. § § 1331, 1441(a) (FEDERAL QUESTION)**

on the interested parties in said action, by delivering a true copy addressed as follows:

Roman Oktupman Otkupman Law Firm, ALC 28632 Roadside Dr., Suite 203 Agoura Hills, CA 91301 roman@ofla.com	Joseph Lavi 8889 Olympic Blvd., Suite 200 Beverly Hills, CA 90211 jlavi@lelawfirm.com
Vincent C. Granberry 8889 Olympic Blvd., Suite 200 Beverly Hills, CA 90211 vgranberry@lelawfirm.com	Kevin Joseph Farnan 8889 Olympic Blvd., Suite 200 Beverly Hills, CA 90211 kfarnan@lelawfirm.com

_____ (BY OVERNIGHT COURIER) I caused each envelope to be sent via Federal Express.

 X (BY MAIL) I placed a true and correct copy thereof in a sealed envelope with First Class postage thereon fully prepaid to the address(es) above, and deposited same in the United States Mail at San Francisco, California.

_____ (BY PERSONAL DELIVERY) I personally delivered a true and correct copy thereof by handing a sealed envelope, addressed to the person(s) at the address(s) set forth above, by leaving the envelope, which was clearly labeled to identify the attorneys being served, with the receptionist or other person apparently in charge at the addresses set forth above.

_____ (BY TELECOPIER) I personally transmitted by facsimile electronic transmission each document to the following number(s):

 X (BY ELECTRONIC TRANSMISSION) I personally transmitted by electronic transmission to the electronic service address at or through which a party or other person has authorized electronic service.

1 _____ (BY CERTIFIED MAIL) I placed a true and correct copy thereof in a sealed envelope
2 with First Class postage thereon fully prepaid by certified mail, requiring return receipt, to the
3 address(es) above, and deposited same in the United States Mail at San Francisco, California.

4 Executed on October 8, 2021 at San Francisco, California.
5 I declare under penalty of perjury that the foregoing is true and correct.

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8 _____ Gwen Wagner
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